



2.4 Defendant, **Michael C. Bynane** (hereinafter referred to as "Mr. Bynane") is an individual who practices law in the State of Texas. He may be served at his place of business located at Bynane Law Firm, 777 S. Post Oak Ln., Suite 1700, Houston, Texas 77056, or wherever he may be found.

2.5 Defendant, **Carlos Ryerson** (hereinafter referred to as "Mr. Ryerson") is an individual who practices law in the State of Texas. He may be served at his place of business located at Ryerson & Associates, P.C., 2800 Post Oak Blvd., St. 4100, Houston, Texas 77056, or wherever he may be found.

2.6 Defendant, **Thomas W. Sankey** (hereinafter referred to as "Mr. Sankey") is an individual who practices law in the State of Texas. He may be served at his place of employment of Duane Morris, L.L.P., 1330 Post Oak Blvd., Suite 800, Houston, Texas 77056, or wherever he may be found.

2.7 Defendant, **Duane Morris, LLP**, is a foreign limited liability partnership, and it may law be served through its registered agent C T Corporation System, 1999 Bryan St., Ste. 900, Dallas, TX 75201-3136 USA.

### **III.**

### **JURISDICTION AND VENUE**

3.1 The subject matter and amount in controversy are within the jurisdictional limits of this court.

3.2 This court has jurisdiction over Defendant, because said Defendant purposefully availed itself of the privilege of conducting activities in the State of Texas. It has established minimum contacts sufficient to confer jurisdiction over it, and the assumption of jurisdiction over Defendant will not offend traditional notions of fair play and substantial justice. It is also consistent with the constitutional requirements of due process.

3.3 Venue is proper in Harris County because all or a substantial part of the events or omissions giving rise to the lawsuit occurred in Harris County, Texas.

### **IV.**

### **BACKGROUND FACTS**

4.1 At all relevant times, each Defendant represented Marek Menger, as his attorney, in his divorce proceeding which is identified as Cause # 2016-06434; *Sherry Menger vs. Marek E. Menger*; pending in the 310<sup>th</sup> Judicial District Court of Harris County, Texas (hereinafter referred

to as the "Underlying Divorce Proceeding"). Each of the Defendants acted as Mr. Menger's attorney and each had a duty to Mr. Menger, in Underlying Divorce Proceeding, in at least the following ways:

- to protect Mr. Menger's community and separate property assets;
- to not allow Mr. Menger's community and separate property assets to be wasted and/or secreted away;
- to properly determine the value of Mr. Menger's community and separate property assets;
- to properly advise Mr. Menger on the proper division of the marital estate;
- to properly advise Mr. Menger on the settlement value of the marital estate;
- to properly retain and designate experts;
- to properly respond to the other party's discovery requests; and
- to properly seek discovery responses from the other party.

## V.

### PLAINTIFF'S CLAIMS AND CAUSES OF ACTION

5.1 Mr. Menger has suffered damages which arise from each of the Defendants' wrongful actions and/or inactions in Underlying Divorce Proceeding. Therefore, Mr. Menger asserts the following claims and causes of action against the Defendants.

#### A. Negligence

5.2 All allegations and facts previously set forth above are contained in this section by reference, as if fully set forth herein. Additionally, and in the alternative to the other claims made herein, Mr. Menger seeks recovery from each Defendant based upon their respective negligence in their representation of Mr. Menger in the Underlying Divorce Proceeding.

5.3 Each of the Defendants were attorneys or law firms practicing law in Texas and had an attorney-client relationship with Mr. Menger at all relevant times. As Mr. Menger's attorneys, each Defendant owed him a duty to act as a reasonably prudent lawyer would have acted, in the same or similar circumstance, including exercising reasonable care in their legal representation of his interests. Each Defendant breached their respective duty to Mr. Menger, in failing to perform one or more of the following duties:

- to protect Mr. Menger's community and/or separate property assets;
- to not allow Mr. Menger's community and/or separate property assets to be wasted and/or secreted away;
- to properly determine the value of Mr. Menger's community and/or separate property assets;

- to properly advise Mr. Menger on the proper division of his marital estate;
- to properly advise Mr. Menger on the settlement value of his marital estate;
- to properly retain and/or designate experts;
- to properly respond to the other party's discovery requests; and
- to properly seek discovery responses from the other party.

5.4 As an attorney/law firm practicing law in the state of Texas, each of the Defendants owed the following duties to Mr. Menger, which they breached:

- a. to provide competent and diligent representation;
- b. entering into proper billing arrangements with Mr. Menger for charging and/or collecting a legal and conscionable fee. (A fee is unconscionable if a competent lawyer could not form a reasonable belief that the fee is reasonable.);
- c. properly communicate with Mr. Menger the basis and/or rate of the attorney's fee to be charged;
- d. charging non-excessive fees to Mr. Menger;
- e. exercise reasonable care to protect Plaintiff's interests; and
- f. properly advise Mr. Menger, including giving him proper legal advice in the application of the law to the facts in the case.

5.5 Each of the Defendants' negligence proximately caused Mr. Menger to suffer economic damages involving his asset commonly known as Petro-Valve, and including suffering mental anguish, and by causing him to incur and pay excessive and unnecessary attorney's fees and expenses.

**B. Gross Negligence**

5.6 All allegations and facts previously set forth above are contained in this section by reference, as if fully set forth herein. Additionally, and in the alternative to the other claims made herein, Mr. Menger seeks recovery from each Defendant based upon their respective gross negligence in their representation of Mr. Menger in the Underlying Divorce Proceeding.

5.7 Each Defendant acted with gross negligence in that their negligence was committed by acting with malice toward Mr. Menger. In addition to his actual damages based upon each Defendant's gross negligence, Mr. Menger seeks recovery of punitive damages and recovery of his reasonable attorney's fees and expenses in bringing this litigation as an element of punitive damages.

**VI.**  
**DAMAGES**

6.1 Mr. Menger seeks monetary relief over \$1,000,000.00 but not more than \$50,000,000.00.

Mr. Menger is entitled to at least the following elements of damages:

- a. actual damages (special and general);
- b. court costs;
- c. prejudgment and post judgment interest;
- d. attorney's fees;
- e. mental anguish damages; and
- f. punitive damages.

**VII.**  
**REQUEST FOR DISCLOSURE**

7.1 Pursuant to Texas Rules of Civil Procedure 194(a)-(d), Mr. Menger requests that each Defendant provide all material and information requested and permitted to be discovered in said Rule.

**PRAYER**

**WHEREFORE, PREMISES CONSIDERED**, Marek E. Menger brings this lawsuit to collect from each Defendant, based upon their actions/inactions described above, all available damages, as well as punitive damages, after a trial on the merits. Mr. Menger seeks from each Defendant all actual damages (special and general), pre and post judgment interest, attorney's fees and costs, punitive damages, and all relief available at law or in equity or as may be supported by justice.

Respectfully submitted,

**WEST & WEST, LLP**

By: \_\_\_\_\_

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**ATTORNEYS FOR PLAINTIFF**